IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

LA.App..No. 17 of 2003()

LAR.156/1999 of PRL.SUB COURT, KOZHIKODE
.....

APPELLANT: RESPONDENT

STATE OF KERALA

BY GOVERNMENT PLEADER SRI.K.V.MANOJ KUMAR

RESPONDENTS: APPELLANT

POOYAMMAL ABDURAHIMAN, NALLALAM P.O.
KOZHIKODE.

BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 06/02/2007, ALONG WITH L.A.ANO.961/2003 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & K.T.SANKARAN,JJ.

L.A.A.Nos. 17 & 961 of 2003

Dated this the 6th day of February, 2007

JUDGMENT

Kurian Joseph,J.

These appeals are filed against common judgment dated 17-8-2001 in L.A.R.No.148/1999 and connected cases. The acquisition is for the purpose of widening of Modern-Kolathara Road. It is the main contention of the learned Government Pleader that the court below grossly erred in relying on Ext.A1 document which is purportedly created for the purpose of claiming enhanced compensation. The court below has rightly rejected the contention noting that Ext.A1 document is executed in March, 1996 whereas the Section 4(1) notification is only on 19-8-1996. There is no evidence on behalf of the appellant. The court below further found on the basis of the evidence that the property covered by Ext.A1 and the acquired property are in the same village. The property having road frontage alone is given value as that of Ext.A1 and those lands not having road frontage but situated adjacent to Ext.A1 property are given only lesser value, namely

Rs.30,000/-. Ext.C1 and the evidence of AW1 would show that the acquired property was similar to Ext.A1 property. In the absence of any contra evidence the reference court rightly held that the claimants were entitled to have a just and fair fixation of the land value at the rate shown in Ext.A1 document which is executed six months prior to Section 4(1) notification. A reasonable classification has also been adopted by awarding a lesser compensation with a difference of Rs.10,000/- per cent in respect of the property having no road frontage. Therefore, we do not find any merit in these appeals. They are accordingly dismissed.

(KURIAN JOSEPH, JUDGE)

(K.T.SANKARAN, JUDGE)

ahg.

KURIAN JOSEPH &
K.T.SANKARAN, JJ.

L.A.A.Nos. 17 & 961 of 2003

JUDGMENT

6th February, 2007